

“(21) PUBLIC COMMUNICATION.—The term ‘public communication’ means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

“(22) MASS MAILING.—The term ‘mass mailing’ means a mailing of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

“(23) TELEPHONE BANK.—The term ‘telephone bank’ means more than 500 telephone calls within any 30-day period of an identical or substantially similar nature.”.

SEC. 533. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—Any Member of Congress, candidate, national committee of a political party, or any person adversely affected by section 324 of the Federal Election Campaign Act of 1971, as added by section 532, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such section 324 violates the Constitution.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia granting or denying an injunction regarding, or finally disposing of, an action brought under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) ENFORCEABILITY.—The enforcement of any provision of section 324 of the Federal Election Campaign Act of 1971, as added by section 532, shall be stayed, and such section 324 shall not be effective, for the period—

(1) beginning on the date of the filing of an action under subsection (a), and

(2) ending on the date of the final disposition of such action on its merits by the Supreme Court of the United States.

(e) APPLICABILITY.—This section shall apply only with respect to any action filed under subsection (a) not later than 30 days after the effective date of this Act.

SA 147. Mr. McCONNELL (for Mr. ENZI) proposed an amendment to the bill S. 295, to provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes; as follows:

On page 10, line 2, insert “cogeneration,” before “solar energy”.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the hearing which was previously scheduled before the Committee on Energy and Natural Resources on Tuesday, March 27, 2001, at 9:30 a.m. in room SD-106 of the Dirksen Senate Office

Building has been rescheduled for Tuesday, April 3, 2001, at 9:30 a.m., in room SD-628 of the Senate Dirksen Office Building in Washington, D.C.

The purpose of this hearing is to consider national energy policy with respect to impediments to development of domestic oil and natural gas resources.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SRC-2 Senate Russell Courtyard, Washington, D.C. 20510-6150.

For further information, please call Trici Heninger or Bryan Hannegan at (202) 224-7932.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 26, 2001, at 4:30 p.m., in closed session to receive a briefing from the Department of Defense on Taiwan's current request for purchases or defense articles and defense services from the U.S.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Madam President, I ask unanimous consent that Stuart Nash of my staff be granted the privilege of the floor during the duration of the debate on campaign finance reform.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106-554, appoints the Senator from Michigan (Mr. LEVIN) to the Board of Trustees for the Center for Russian Leadership Development.

SMALL BUSINESS AND FARM ENERGY EMERGENCY RELIEF ACT OF 2001

Mr. McCONNELL. I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 21, S. 295.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 295) to provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Small Business, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business and Farm Energy Emergency Relief Act of 2001”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) a significant number of small businesses in the United States, non-farm as well as agricultural producers, use heating oil, natural gas, propane, kerosene, or electricity to heat their facilities and for other purposes;

(2) a significant number of small businesses in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) sharp and significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small businesses dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983-1984, 1988-1989, 1996-1997, and 1999-2000; and

(D) can be caused by a host of factors, including global or regional supply difficulties, weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to those who own and operate small businesses.

SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (3) the following:

“(4)(A) In this paragraph—

“(i) the term ‘heating fuel’ means heating oil, natural gas, propane, or kerosene; and

“(ii) the term ‘sharp and significant increase’ shall have the meaning given that term by the Administrator, in consultation with the Secretary of Energy.

“(B) The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a sharp and significant increase in the price of heating fuel or electricity.

“(C) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

“(D) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

“(E) For purposes of assistance under this paragraph—

“(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

“(ii) if no declaration has been made pursuant to clause (i), the Governor of a State in

which a sharp and significant increase in the price of heating fuel or electricity has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

“(F) Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel or electricity to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, solar energy, wind energy, and fuel cells.”.

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL AND ELECTRICITY.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting “, sharp and significant increases in the price of heating fuel or electricity” after “civil disorders”; and

(2) by inserting “other” before “economic”.

SEC. 4. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking “operations have” and inserting “operations (i) have”; and

(B) by inserting before “: Provided,” the following: “, or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after June 1, 2000, as the result of a sharp and significant increase in energy costs or input costs from energy sources occurring on or after June 1, 2000, in connection with an energy emergency declared by the President or the Secretary”;

(2) in the third sentence, by inserting before the period at the end the following: “or by an energy emergency declared by the President or the Secretary”; and

(3) in the fourth sentence—

(A) by inserting “or energy emergency” after “natural disaster” each place it appears; and

(B) by inserting “or declaration” after “emergency designation”.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) made to meet the needs resulting from natural disasters shall be available to carry out the amendments made by subsection (a).

SEC. 5. GUIDELINES.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration and the Secretary of Agriculture shall each issue such guidelines as the Administrator and the Secretary, as applicable, determines to be necessary to carry out this Act and the amendments made by this Act.

SEC. 6. REPORTS.

(a) SMALL BUSINESS.—Not later than 18 months after the date of final publication by the Administrator of the Small Business Administration of the guidelines issued under section 5, the Administrator shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the program established

under section 7(b)(4) of the Small Business Act, as added by this Act, including—

(1) the number of small businesses that applied to participate in the program and the number of those that received loans under the program;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that participated in the program are located;

(4) the type of heating fuel or energy that caused the sharp and significant increase in the cost for the participating small business concerns; and

(5) recommendations for improvements to the program, if any.

(b) AGRICULTURE.—Not later than 18 months after the date of final publication by the Secretary of Agriculture of the guidelines issued under section 5, the Secretary shall submit to the Committees on Small Business and Agriculture, Nutrition, and Forestry of the Senate and the Committees on Small Business and Agriculture of the House of Representatives, a report on the effectiveness of loans made available as a result of the amendments made by section 4, together with recommendations for improvements to the loans, if any.

SEC. 7. EFFECTIVE DATE.

(a) SMALL BUSINESS.—The amendments made by this Act shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Administrator, with respect to assistance under section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act, to economic injury suffered or likely to be suffered as the result of—

(1) sharp and significant increases in the price of heating fuel occurring on or after November 1, 2000; or

(2) sharp and significant increases in the price of electricity occurring on or after June 1, 2000.

(b) AGRICULTURE.—The amendments made by section 4 shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Secretary of Agriculture.

AMENDMENT NO. 147

Mr. MCCONNELL. Senator ENZI has an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. ENZI, proposes an amendment numbered 147.

Mr. MCCONNELL. I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To include cogeneration as an alternative energy source)

On page 10, line 2, insert “cogeneration,” before “solar energy”.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 147) was agreed to.

Mr. MCCONNELL. I ask unanimous consent the committee substitute, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, on February 28, 2001, the Committee on Small Business considered and voted unanimously, 18-0, to report the “Small Business and Farm Energy Emergency Relief Act of 2001” (S. 295) to the full Senate. This legislation is designed to assist small businesses and farms to recover from economic injuries resulting from sharp and significant increases in the price of heating oil, natural gas, propane, kerosene, or electricity. S. 295 would permit the Small Business Administration (SBA) to expand its Economic Injury Disaster Loan Program and the Department of Agriculture to expand its Emergency Loan Program so that small businesses and farms could apply for economic injury loans when they are suffering from the significant increases in energy prices.

At the time the Committee on Small Business filed the report on S. 295 with the Senate, the Congressional Budget Office (CBO) had not completed its cost estimate on the legislation. Under rule XXVI(1)(A)(1) of the Standing Rules of the Senate, the Committee is required to provide an estimate of the cost of the legislation. The CBO cost estimate dated March 21, 2001, provides the cost estimate for S. 295.

Therefore, Mr. President, I ask unanimous consent that the CBO cost estimate on S. 295 be considered part of the official record of the bill and the report with the transmittal letter dated March 21, 2001, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 2001.

Hon. CHRISTOPHER S. BOND,
Chairman, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 295, the Small Business and Farm Energy Emergency Relief Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE
S. 295—*Small Business and Farm Energy Emergency Relief Act of 2001*

Summary: S. 295 would expand certain loan programs administered by the Small Business Administration (SBA) and the U.S. Department of Agriculture (USDA). Under current law, SBA provides loans to small businesses that suffer the effects of a natural disaster, and USDA provides similar loans to family farms. S. 295 would expand these two programs to authorize loans to small businesses and family farms to recover from economic injuries resulting from sharp and significant increases in the price of electricity, heating oil, natural gas, propane, or kerosene. The bill would authorize SBA and USDA to provide loans for this purpose for two years.

CBO estimates that implementing S. 295 would cost \$51 million over the 2002–2006 period, subject to appropriation of the necessary amounts. CBO estimates that enacting S. 295 would not affect direct spending or

receipts; therefore, pay-as-you-go procedures would not apply. S. 295 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 295 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 350 (agriculture).

		By fiscal year, in millions of dollars—					
		2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION							
Baseline Spending Under Current Law:							
Estimated Authorization Level ¹		190	197	201	207	212	219
Estimated Outlays		220	210	200	206	211	218
Proposed Changes:							
Estimated Authorization Level ..		0	24	24	1	1	1
Estimated Outlays		0	6	27	13	4	1
Spending Under S. 295:							
Estimated Authorization Level ..		190	221	225	208	213	220
Estimated Outlays		220	216	227	219	215	219

¹ The 2001 level is the amount appropriated for that year for SBA's Disaster Loan Program and the USDA's Emergency Loan Program. The amounts shown for 2002 through 2006 are CBO levels that reflect annual increases for anticipated inflation.

Basis of estimate: For this estimate, CBO assumes that S. 295 will be enacted near the end of fiscal year 2001, and that SBA and USDA would begin offering these kinds of loans in the first quarter of fiscal year 2002. In addition to the administrative costs of providing more loans, the cost of implementing S. 295 would depend on two factors: (1) the amount of money that the government would lend to small businesses and family farms—the program level, and (2) the riskiness of the loans provided—the subsidy rate.

Program level

In 2000, SBA provided over 28,000 disaster loans to homeowners and small businesses. Of this total, about 4,000 loans were to small businesses to recover from physical damages caused by natural disasters, and about 1,000 of those loans were to cover the cost of economic injuries suffered by small businesses due to disasters. S. 295 would authorize an indefinite number of additional loans to cover economic injuries related to the prices of certain fuels. Based on information from the SBA, CBO estimates that expanding the SBA program to cover economic injuries to small businesses that are caused by high energy prices would greatly increase the number of SBA loans. We estimate the agency would make an additional 10,000 new loans each year—about a one-third increase over the present number of loans. Based on information from USDA, CBO estimates that expanding the USDA program to cover energy-related costs would add another 5,000 loans per year.

Under current law, SBA loans to cover the cost of economic injuries average about \$5,000 per borrower, and we assume that loans provided under S. 295 would be the same size. The actual number of loans provided under the bill should be either higher or lower than CBO's estimate. Similarly, the average loan size could be either higher or lower than we assume. But if there are fewer loans under the bill than we estimate, it is likely that the average loan size would be greater than \$5,000 because many borrowers are likely to rely on such loans to invest in physical assets that could help cover the cost of energy bills.

In total, CBO estimates that SBA would provide about \$50 million in new loans in both 2002 and 2003, and USDA would provide another \$25 million in loans in each of these years. These estimates are uncertain, and they are based on SBA's anticipated demand

for energy-related loans. The actual number and value of loans made under the bill would depend on the guidelines that SBA and USDA develop. These guidelines would specify the qualification requirements for small businesses applying for a loan, how the borrowed money could be used, and the exact terms of the loans.

Subsidy rate

The Federal Credit Reform Act requires an upfront appropriation for the subsidy costs of credit programs. The subsidy cost of this proposed program would be the estimated long term cost to the government of these loans, calculated on a net present value basis, excluding administrative costs.

Under current law, the SBA program has an estimated subsidy rate of about 17 percent. This rate includes loans to homeowners to cover the cost of physical damages caused by natural disasters, loans to business owners to cover the cost of such physical damages, and loans to business owners to cover the cost of economic injuries caused by natural disasters. Those loans to small businesses have an estimated subsidy rate of 20 percent. Of these three types of loans, the economic injury loans involve the greatest amount of risk. In addition, because business owners generally can foresee higher energy prices better than natural disasters, CBO expects that loans provided under S. 295 would entail more risk than loans currently provided by SBA. CBO estimates that loans provided by SBA to cover economic injuries related to energy prices would involve a subsidy rate of about 20 percent.

The USDA loan program currently has an estimated subsidy rate of 25 percent, and CBO estimates that the loans provided by USDA to cover economic injuries related to energy prices would not affect this subsidy rate.

Administrative costs

Based on information from SBA, CBO estimates that the cost of providing these loans over the authorized two-year period would equal about 10 percent of the program level. CBO estimates that it would cost an additional \$1 million each year to administer the existing loans after the two-year authorization period ends, or a total of \$11 million over the 2002-2006 period, subject to the availability of appropriated funds.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 295 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Rachel Milberg. Impact on State, Local, and Tribal Governments: Shelley Finlayson. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. KERRY. Mr. President, today we are considering S. 295, the Small Business Energy Emergency Relief Act of 2001. I have waited weeks to bring this bill before the Senate, and so I am very pleased that we are voting on this bill today.

I introduced this bill to address the significant price increases of heating fuels and electricity and the adverse impact those prices are having on our more than 24 million small businesses, small farmers included, and the self-employed. The support for this bill reflects how much small businesses in our States from Massachusetts on the east coast to California on the west

coast—are feeling the sting of high heating and electricity bills.

I thank my colleagues who are co-sponsors. Senators LIEBERMAN, SNOWE, BINGAMAN, LANDRIEU, JOHNSON, DOMENICI, LEVIN, WELLSTONE, JEFFORDS, HARKIN, SCHUMER, CLINTON, KOHL, EDWARDS, LEAHY, BAUCUS, COLLINS, DODD, BOB SMITH, CHAFEE, BAYH, KENNEDY, INOUE, DASCHLE, BOND, JACK REED, CORZINE, TORRICELLI, AKAKA, CANTWELL, MURRAY, CLELAND, ENZI, and SPECTER. I also thank Congressman TOM UDALL of New Mexico for introducing the companion bill to this legislation, H.R. 1010, on March 13th.

As so many of my colleagues know, in addition to electricity, many small businesses are dependent upon heating oil, propane, kerosene or natural gas. They are dependent either because they sell or distribute the product, because they use it to heat their facilities, or because they use it as part of their business. The significant and unforeseen rise in the price of these fuels over the past two years, compounded by cold snaps and slowed economic conditions this winter, threatens their economic viability.

According to the Department of Energy, the cost of heating oil nationally climbed 72 percent from February 1999 to February 2000, the cost of natural gas climbed 27 percent from September 1999 to September 2000 and 59 percent over the past year, and the cost of propane climbed 54 percent from January 2000 to January 2001.

As I said when I introduced this bill on February 8, the financial falter or failure of small businesses has the potential to extend far beyond the businesses themselves, and we must do what we can to mitigate any damage. Jobs alone give us enough reason to get involved and minimize the number of small business disruptions or failures because they provide more than 50 percent of private-sector jobs.

My bill, the Small Business Energy Emergency Relief Act of 2001, would provide emergency relief, through affordable, low-interest Small Business Administration Economic Injury Disaster Loans, EIDLs, and loans through the Department of Agriculture's Emergency Loan program, to small businesses and small farms that have suffered direct economic injury, or are likely to suffer direct economic injury, from the significant increases in the prices of four heating fuels heating oil, propane, kerosene, and natural gas or electricity.

Initially, this legislation covered four heating fuels, addressing the needs of both urban and rural small businesses. However, I listened to and worked closely with colleagues on both sides of the aisle to address their concerns. Consequently, we made the following changes, some of which I completely support and consider real improvements to the bill and good public policy, and some of which I don't entirely agree with but have accepted in the spirit of compromise. Let me go

through the changes. I have already mentioned some of them in describing the basic legislation.

I incorporated a proposal by Senators BOXER and FEINSTEIN to include electric energy in the scope of the bill. I agree with this. There are more and more small businesses around the country being hurt by the spike in electricity prices, and I think they too should have access to affordable loans to help them through these difficult times.

I incorporated a proposal by Senators KOHL and HARKIN to extend similar disaster loan assistance for these purposes to small farms and small agricultural producers through the Department of Agriculture's Emergency Loan program. I agree with this, and I am glad we found a way to help small farms.

I incorporated a proposal by Senator LEVIN to allow the loan proceeds from the SBA disaster loans to be used for small businesses to convert their systems from using heating fuels to using renewable or alternative energy sources. This assistance was also supposed to be available to small farms and small agribusinesses through the USDA's emergency loans, but members of the Agricultural Committee objected. It's unfortunate that this assistance won't be available to small farms because I think we should encourage all industries to use renewable energy.

I incorporated a proposal by Senator ENZI to expand Senator LEVIN's amendment by including "co-generation" in the list of renewable or alternative energy sources. The addition of "co-generation" is to allow small businesses to invest in co-generation capacity to enhance efficiency and, as a result, reduce fuel consumption, save money and reduce pollution. I have some concerns about the addition of "co-generation." First, it changes the scope of the Levin amendment by adding an efficiency technology to a list of what are largely renewable energy technologies. Second, "co-generation" is a broad term that can include different fuels, different technologies, and result in varying levels of efficiency gains. Because the bill does not establish specific performance standards for efficiency gains resulting from co-generation, I will watch closely over the coming two years to learn who participates and what kind of efficiency gains result, and to consider changes to the provision. It is my expectation that the program will only assist projects that will reduce energy consumption and pollution below business-as-usual levels. Third, while the bill is absolutely clear on this point, I want to reiterate that nothing in the bill exempts small businesses that participate in this program from compliance with all local, state and Federal permitting requirements, and public health and environmental standards. Senator ENZI hopes that this language will help facilities add co-generation capacity, increase efficiency, save fuel, save money and reduce pollution, and I

can support that goal. I want to thank my friend from Wyoming for working with me on his amendment, recognizing my concerns and finding acceptable language.

I also incorporated a proposal by Senator BOND to sunset the program after two years, and a study of the program's usage to help Congress assess the merits of reauthorization. I preferred to establish a permanent program because, based on past experiences, I firmly believe our energy problems will persist for more than two years and the assistance should be available to small businesses when they really need it rather than waiting for Congress to act again. However, Senator BOND and I try very hard to work in a bi-partisan fashion, so I have agreed to the two-year sunset date with every intention of reauthorizing this program if it proves successful in helping small businesses. I would like to add that I expect the SBA, when it reports to our Committee on the program, to include as much information as possible about loans approved for small businesses to convert their energy systems to use co-generation or urban waste. The purpose of Senator LEVIN's proposal was to encourage less pollution and less fossil fuel consumption, not more, which I fully support, and I plan to monitor any relevant projects.

Lastly, I would like to comment on the Congressional Budget Office's cost estimate of this bill, which will be published today. While I understand that CBO uses very conservative assumptions in its estimates in general, I question its cost estimate of this particular bill. I do agree with CBO that this program is genuinely needed and that small businesses in many parts of the country will apply for these loans. However, I question the assumption that the number of economic injury loans SBA makes will jump from the current level of 1,000 per year to 10,000 per year. If they do, it will only reinforce the need for this assistance, and not be an argument for opposing this program, but the projection seems on the high side.

And I disagree with CBO's assertion that "many borrowers are likely to rely on such loans to invest in physical assets that could help cover the cost of energy bills." The legislation does allow small businesses to use the proceeds of SBA economic injury disaster loans for converting their systems to alternative or renewable energy sources, but they are not eligible for a loan unless they have also suffered significant economic injury due to the significant increase in energy prices and can't meet their financial obligations. While the loan proceeds may be used for such purposes if they convert to renewable or alternative energy systems, I believe the primary use of the loan proceeds will be to provide small businesses with working capital to meet their increased financial obligations. CBO's assumption, which I be-

lieve to be misguided, drives up the cost estimate of this program.

I thank my colleagues for their input and cooperation. I believe it made the Small Business and Farm Energy Relief Emergency Act a better bill for those who need the assistance. This legislation will help those who have nowhere else to turn. We've got the tools at the SBA and USDA to assist them, and I believe it's more than justified, if not obligatory, to use disaster loan programs to help these small businesses. Further, by providing assistance in the form of loans which are repaid to the Treasury, we help reduce the Federal emergency and disaster costs, compared to other forms of disaster assistance, such as grants.

I urge my colleagues to support this legislation. SBA's programs make recovery affordable for small business owners, and with the right support, can help mitigate the cost of significant economic disruption in your states caused when affected small businesses falter or fail, leading to job lay-offs and unstable tax bases. I also ask our friends in the House to act quickly and to support this legislation. Again, I thank Congressman TOM UDALL for his leadership on this issue in the House, and I thank his colleagues Congresswoman SUE KELLY, Congresswoman GRACE NAPOLITANO, and Congressman MARK UDALL for their early support of this legislation.

Mr. MCCONNELL. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 295), as amended, was read the third time and passed, as follows:

S. 295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business and Farm Energy Emergency Relief Act of 2001".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a significant number of small businesses in the United States, non-farm as well as agricultural producers, use heating oil, natural gas, propane, kerosene, or electricity to heat their facilities and for other purposes;

(2) a significant number of small businesses in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) sharp and significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small businesses dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983-1984, 1988-1989, 1996-1997, and 1999-2000; and

(D) can be caused by a host of factors, including global or regional supply difficulties,

weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to those who own and operate small businesses.

SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (3) the following:

“(4)(A) In this paragraph—

“(i) the term ‘heating fuel’ means heating oil, natural gas, propane, or kerosene; and

“(ii) the term ‘sharp and significant increase’ shall have the meaning given that term by the Administrator, in consultation with the Secretary of Energy.

“(B) The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a sharp and significant increase in the price of heating fuel or electricity.

“(C) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

“(D) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

“(E) For purposes of assistance under this paragraph—

“(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

“(ii) if no declaration has been made pursuant to clause (i), the Governor of a State in which a sharp and significant increase in the price of heating fuel or electricity has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

“(F) Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel or electricity to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, and fuel cells.”

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL AND ELECTRICITY.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting “, sharp and significant increases in the price of heating fuel or electricity” after “civil disorders”; and

(2) by inserting “other” before “economic”.

SEC. 4. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking “operations have” and inserting “operations (i) have”; and

(B) by inserting before “: Provided,” the following: “, or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after June 1, 2000, as the result of a sharp and significant increase in energy costs or input costs from energy sources occurring on or after June 1, 2000, in connection with an energy emergency declared by the President or the Secretary”;

(2) in the third sentence, by inserting before the period at the end the following: “or by an energy emergency declared by the President or the Secretary”; and

(3) in the fourth sentence—

(A) by inserting “or energy emergency” after “natural disaster” each place it appears; and

(B) by inserting “or declaration” after “emergency designation”.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) made to meet the needs resulting from natural disasters shall be available to carry out the amendments made by subsection (a).

SEC. 5. GUIDELINES.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration and the Secretary of Agriculture shall each issue such guidelines as the Administrator and the Secretary, as applicable, determines to be necessary to carry out this Act and the amendments made by this Act.

SEC. 6. REPORTS.

(a) SMALL BUSINESS.—Not later than 18 months after the date of final publication by the Administrator of the Small Business Administration of the guidelines issued under section 5, the Administrator shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the program established under section 7(b)(4) of the Small Business Act, as added by this Act, including—

(1) the number of small businesses that applied to participate in the program and the number of those that received loans under the program;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that participated in the program are located;

(4) the type of heating fuel or energy that caused the sharp and significant increase in the cost for the participating small business concerns; and

(5) recommendations for improvements to the program, if any.

(b) AGRICULTURE.—Not later than 18 months after the date of final publication by the Secretary of Agriculture of the guidelines issued under section 5, the Secretary shall submit to the Committees on Small Business and Agriculture, Nutrition, and Forestry of the Senate and the Committees on Small Business and Agriculture of the House of Representatives, a report on the effectiveness of loans made available as a result of the amendments made by section 4, together with recommendations for improvements to the loans, if any.

SEC. 7. EFFECTIVE DATE.

(a) SMALL BUSINESS.—The amendments made by this Act shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Administrator, with respect to assistance under section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act, to economic injury suffered or likely to be suffered as the result of—

(1) sharp and significant increases in the price of heating fuel occurring on or after November 1, 2000; or

(2) sharp and significant increases in the price of electricity occurring on or after June 1, 2000.

(b) AGRICULTURE.—The amendments made by section 4 shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Secretary of Agriculture.

INDEPENDENT OFFICE OF ADVOCACY ACT OF 2001

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 22, S. 395.

The PRESIDING OFFICER. The clerk will please report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 395) to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Small Business with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Independent Office of Advocacy Act of 2001”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) excessive regulations continue to burden United States small business[es] concerns;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small business[es] concerns;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the “Office”) is an effective advocate for small business[es] concerns that can help to ensure that agencies are responsive to small business[es] concerns and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code, and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small business[es] concerns without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small business[es] concerns; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small business[es] concerns.

SEC. 3. PURPOSES.

The purposes of this Act are—